

Appl. No.: 10/089,815  
Amdt. dated 12/07/2005  
Reply to Office action of September 12, 2005

### REMARKS/ARGUMENTS

In the final Office Action dated September 12, 2005, Claims 14, 15, 20-24, 29, 31-33, and 37-40 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,542,103 to Mottier et al. ("Mottier"). Claims 25-28 were rejected under 35 U.S.C. § 103(a) as being obvious over Mottier in view of U.S. Patent No. 5,966,671 to Mitchell et al. ("Mitchell"). Claim 30 was rejected under 35 U.S.C. § 103(a) as being obvious over Mottier. In view of the following remarks, Applicant respectfully requests reconsideration of the present application and allowance of the previously presented set of claims.

#### 35 U.S.C. § 102(e)

The invention as defined in the independent claims relates to a portable device comprising a user input. The user input comprises a key having a first function of performing a shortcut to a pre-determined menu (listing, e.g., the first level menu items) when the device is in a first state, and a second function when the device is not in the first state. The second function of the key is to change the state of the device to the first state. The device further comprises a processor arranged to determine the state of the device and to perform the appropriate function in response to a first mode of operation of the key (e.g., performing a shortcut to a pre-determined menu).

Mottier relates to a dual function switch of a radio telephone. This key functions as a volume key when the phone is in standby or when an answered call is taking place. *See* Mottier, col. 2, lines 19-27; Fig. 1. When a call is incoming, pressing the volume key twice, before the call is answered, displays a feature or menu of features. *See* Mottier, col. 2, lines 40-44; Fig. 1. The volume key can then be used to select features from the menu, the features relating to the auto-answer feature of the phone. *See* Mottier, col. 2, lines 44-46. The feature selected in the menu is activated when the call is answered by the auto-answer feature of the phone. *See* Mottier, Fig. 1.

In contrast to the presently claimed invention, Mottier does not teach or suggest a portable device comprising a key having a first function of performing a shortcut to a predetermined first-level menu when the portable device in a first state, the key also having a second function of changing the portable device back to the first state when the portable device is

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not in the first state. While the volume key in Mottier is operable to access and select from a menu when an incoming call is detected (but before the incoming call is answered), the volume key does not perform the second function recited by the claimed invention. In this regard, the volume key does not operate to change the state of the device to the first state in instances in which the device is not already in the first state. In fact, since the first state is defined by the claimed invention as that state in which the key functions as a shortcut to the menu, the first state in Mottier would be the state of detecting an incoming call prior to answering the call. Since this state is largely controlled by other entities, neither the volume key nor any other key of the Mottier device is operable to switch to such a first state.

Therefore Mottier does not disclose, as claimed in the current claims, a key having a first function of performing a shortcut to a predetermined menu when the device is in a first state and a second function of changing the state of the device to the first state, when the device is not in the first state. Accordingly, the rejection of independent Claims 14, 37, and 38 under 35 U.S.C. § 102(e) has been traversed, and, as such, Claims 14, 15, 20-24, 29, 31-33, and 37-40 should be in condition for allowance.

**35 U.S.C. § 103(a)**

As described above, Mottier does not teach or suggest a portable device comprising a key having a first function of performing a shortcut to a predetermined menu when the device is in a first state, and a second function of changing the state of the device to the first state when the device is not in the first state, as recited by the claims of the present application. Furthermore, there is no suggestion or motivation in the Mitchell reference to modify the teachings of Mottier to produce the claimed invention. As such, the rejection of dependent Claims 25-28 and 30, which depend from independent Claim 14, under 35 U.S.C. § 103(a) is overcome.

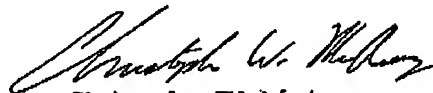
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### Conclusion

In view of the foregoing remarks presented above, it is respectfully submitted that all of the claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,


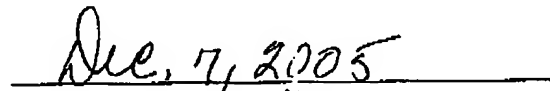


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